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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,241	02/12/2001	Paul Aschauer	951/49356	7321

7590

07/16/2003

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EXAMINER

DALENCOURT, YVES

ART UNIT

PAPER NUMBER

2635

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/701,241

Applicant(s)

ASCHAUER ET AL.

Examiner

Yves Dalencourt

Art Unit

2635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-10 and 12-14 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

This office action is responsive to communication filed on 11/27/2000.

Claim Objections

Claim 6 is objected to because of the following informalities: It is suggested to change " the " before user to -- a -- (claim 6, line 3). Appropriate correction is required.

Claim 12 is objected to because of the following informalities: It is suggested to change " the " before new to -- a -- (claim 12, line 2). Appropriate correction is required.

Claim 11 is objected to under 37 CFR 1.75(c) as being in improper dependent form because it is noted that such claim depends on a claim that has been cancelled. Accordingly, the claim has not been further treated on the merits.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 6 – 10, and 13 – 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Kenneth E. Flick (US 6140939; hereinafter Flick).

Regarding claim 6, Flick teaches a remote control device for motor vehicles with a transmitter (50, figure 6) for a wireless transmitted enabling signal, which is activated only when the user has been recognized as the authorized user (50, figure 6; paragraph bridging col. 4 & col. 5), and with an identification device (82', figure 6), which recognizes this authorization and capable of being assembled in one module along with the transmitter (col. 9, lines 9 – 11), wherein the identification device (82') records the personal and individual characteristics of the user (col. 5, lines 45 – 55).

Regarding claim 7, Flick teaches a remote control device for motor vehicles, wherein the identification device (82') records a fingerprint sensed by sensor 59 (see figure 6; col. 4, lines 61 – 63; col. 5, lines 8 – 13).

Regarding claim 8, Flick teaches a remote control device for motor vehicles, wherein the identification device (82') records a speech recognition patterns sensed by sensor 59 (see figure 6; col. 4, lines 61 – 64; the claimed vocal characteristic).

Regarding claim 9, Flick teaches a remote control device for motor vehicles, wherein the identification device (82') compares the recorded information and performs the verification check of the user (see figure 6; col. 5, lines 45 – 55; the claimed checks the record).

Regarding claim 10, Flick teaches a remote control device for motor vehicles, wherein the identification device transmits the recorded information to the vehicle and performs a verification check of the user in the motor vehicle (see figure 5; paragraph bridging col. 8, line 55 & col. 9, lines 3).

Regarding claims 13 and 14, Flick teaches a remote control device for motor vehicles, wherein the identification device transmits the recorded information to the vehicle and performs a verification check of the user in the motor vehicle (paragraph bridging col. 8 & col. 9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over by Kenneth E. Flick (US 6140939; hereinafter Flick) in view of Joseph Gormley (US 5513107; hereinafter Gormley).

Regarding claim 12, Flick teaches all the limitations on claim 6, but fails to specifically teach that the authorization of the new user is restricted.

Gormley teaches, in the same field of endeavor, a method and apparatus for controlling operating subsystems of a motor vehicle, wherein the authorization of the new user (valet) is restricted (col. 2, lines 34 – 42; col. 7, lines 9 – 22).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a remote control device, wherein the authorization of the new user is restricted in Flick's device as evidenced by Gormley because Flick suggest a code reset means for learning a new uniquely coded transmitter as a temporary code and may deleting such temporary code and Gormley further teaches that the authorization of the new user is being restricted for the purpose of permitting safe operation of the vehicle within a parking lot for example, but otherwise substantially restrict performance of the vehicle.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yves Dalencourt whose telephone number is (703) 308-8547. The examiner can normally be reached on M-TH 7:30AM - 6:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (703) 305-4704. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Yves Dalencourt



July 7, 2003